IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7135 OF 2005

Umakant D. Dandgawhal .. Petitioner
Versus
State of Maharashtra & Anr. .. Respondents

Mr.D.B.Sawant and Santosh Patil for petitioner
Mr.R.M.Patne, A.G.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 20th November 2007

P.C.

. The only contention raised by Mr.Sawant in support of the petition is that the authorities failed to appreciate that the petitioner cannot be called upon to pay revised/increased licence fees when the licence period was only from 15th July 1993 to 30th September 1993. In the absence of proper particulars as to when the revised/increased rates came into force as to whether they would

apply to the licence of the nature issued in favour of the petitioner or not are matters which have not been addressed by the authorities at all.

2. With the assistance of the learned Counsel for both sides, I have perused the order passed by the authorities and impugned in this petition.

3. It is undisputed that the petitioner has deposited Rs.15,000/- in Government treasury. It is observed that the revision in the licence fees was under consideration. It is observed that the licence fees have been increased and now stand revised to Rs.65,000/-. The petitioner is required to pay the balance sum of Rs.50,000/-. However, the revisional as well as appellate authority have failed to apply their mind to the fact as to whether the order dated 16th March 1993 allegedly increasing licence fee being

stayed and the stay being vacated on 8th February 1994, could the petitioner be called upon to pay the balance sum. More so, when the licence period expired admittedly on 30th September 1993. It is in such circumstances, that the authorities must apply their mind as to whether the petitioner is obliged to pay the balance sum or not.

4. Petitioner has agreed to appear before the authority if the same are directed to consider this aspect of the matter afresh. Despite considerable period having lapsed from the date of impugned orders, the issue being of public funds and public monies, it would be just, fair and proper to accede to petitioner’s request and have these issues re-examined by the Collector, Nashik who upon personally hearing the petitioner shall pass appropriate orders afresh in accordance with law.

5. Accordingly, the petitioner agrees to appear before the collector on 30th November 2007. If the petitioner so appears, the Collector to hear the petitioner and pass appropriate orders on the issues summarised above within a period of four weeks from the date of appearance of the petitioner. The said order be communicated to the petitioner as well.

6. Petitioner having agreed to appear before the authority so also the the authorities not taking a unreasonable view of the matter, it is directed that the petitioner shall not raise the issue of limitation or delay. Needless to state that if the petitioner fails to appear on 30th November 2007, challenge to the impugned order fails and thereupon the petition stands dismissed without any further reference to the court. Petition is disposed of in terms aforesaid by setting aside the orders under challenge.

(S.C.Dharmadhikari, J)